

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)
) No. 10-72 (Erie)
v.)
)

LARRY ALLEN SLEDGE

MEMORANDUM ORDER

Before the Court is Defendant's Motion for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2). Defendant was charged with, and pleaded guilty to, possessing with intent to distribute and distributing 28 grams or more of a mixture and substance containing a detectable amount of crack cocaine, in violation of 21 U.S.C. § 841. On March 6, 2012, Defendant was sentenced to the mandatory statutory minimum term of imprisonment of 60 months. Section 3582 does not apply to statutory mandatory minimum sentences. See United States v. Jones, 605 Fed. Appx. 81 (3d Cir. 2015).

Defendant, however, asserts that he is entitled to a reduction in sentence, because he was improperly charged and sentenced based on a crime involving 42 grams of crack cocaine. Instead, he contends, he should have been charged with 20.73 grams of crack cocaine, and 21.2 grams of cocaine. In other words, Defendant challenges the factual basis for his sentence. Section 3582 is not an appropriate vehicle for such a challenge. Moreover, Defendant raised a similar argument in connection with his 28 U.S.C. § 2255 petition, which was denied by Order dated January 29, 2016. Further, were I to construe his present Motion under Section 2255, it would also be denied as a second or successive petition. 28 U.S.C. § 2255(h). Defendant's Motion must be denied.

AND NOW, this 21st day of April, 2016, IT IS SO ORDERED.

BY THE COURT:

/s/Donetta W. Ambrose

Donetta W. Ambrose

Senior Judge, U.S. District Court